

THE SUPREME COURT.

A. H. Wille, chief justice; J. W. Stanton and R. E. Gaines, associate justices; C. S. Morse, clerk; M. M. Johnson, bailiff.

D. H. and C. H. McClure vs. heirs of G. W. Sheek, from Baylor county; opinion by Gaines, A. J. In 1872 J. W. Sheek sold a tract of land for \$2700, of which \$700 was paid in cash, and J. M. Lane, a debtor of the vendee, assumed to pay the balance in cattle. It was agreed that Lane should pay G. W. Sheek (a brother of J. W. S.) the balance, and executed an obligation to him. J. W. S. was insolvent at this time, and the transfer was made to secure a debt due his brother of \$696, and the balance was to be paid on a debt of \$3000 due J. S. Sheek, another brother of J. W. S., provided it was not paid out of certain collateral he then held. When the obligation for the cattle fell due, Lane made a bill of sale of fifty-eight cattle, valued at \$696, which discharged the debt due G. W. Sheek, and J. S. Sheek having collected his claim in the meantime, the balance was paid into the hands of J. W. S., who, as he testified, appropriated in payment of a house to his sister to whom he was under obligation, and the balance was paid to his creditors. The bill of sale was dated 1874, ten years before the levy was made, which gave rise to this suit. The cattle levied on were in part those transferred by the bill of sale and their increase. It was sworn that J. W. Sheek, because his brother G. W. Sheek was physically unable, attended to the cattle, for which he was to receive one-third of the calves. The court did not err in overruling appellants' contention for continuance, because the agreement for it was made by appellee's counsel without their consent. Appellant did not show that it would prejudice their claim but relied solely on the agreement while appellees showed that it would prejudice them very much, by cattle dying, etc. Such agreements are not like contracts and may be set aside by the exercise of sound discretion in the court. The court did not err in excluding Witness Lane's depositions because he was in attendance at the term of the court. The court instructed the jury they must believe from the evidence that J. W. Sheek was the actual owner of the property in order to subject it to appellant's debt. This was set down as error by the appellants. The charge they asked for related more to the transfer from Lane than the bill of sale, and the transfer was not put in issue, but it raises the question of fraud in the transfer by the bill of sale. A consideration of the facts of the case shows that the debt of \$696, was bona fide and the transfer was not made to hinder, delay, etc., the creditors. The transaction was like all other pledges and the relationship of the parties was not sufficient of itself to show fraud. The payment of the balance back to J. W. Sheek could not affect G. W. Sheek's rights, because the latter's only connection with the affair was to collect his debt. The evidence so clearly and fully showed the title in G. W. Sheek that no other verdict could be given. The judgment is affirmed.

C. W. Baldridge et al. vs. A. F. Penland, appeal from Coleman county; opinion by Stanton, A. J. This was a suit by a retail liquor dealer against the estate of Thomas Hays, deceased. It was appealed by appellee from the probate court, and by appellant from the district court. The questions raised as to the appeal bond and the accuracy of the transcript, etc., are not well taken. The account rendered was taken from appellee's books, which latter, were afterwards destroyed by fire, and shows charges such as "to bar, for billiards and drinks," "to billiards, games and drinks," there was also a charge of corn and money loaned. The clerks who made part of the entries testified to their correctness and appellee testified to those he made. In introducing a tradesman's account, several things are necessary before such books are admissible. The items must be shown to have been made from day to day, and must relate to the business of the dealer, must show with reasonable certainty what is the basis of the charge, must be regular on their face. The dealer should be required to evidence of fair dealing, etc. In this case the items are not shown to have been made contemporaneously with their purchase. "Games," corn and lending money was not the business of the dealer. The charges for different items do not show what each were for. Some entries show "balance for drinks," etc., showing some payments to have been made. That copies from books may be received there is no question, but it must be shown that the books were so kept as to render them admissible if produced; we do not think the proof justified the admission of any portion of the copy of the account, and for the error in admitting it the judgment of the District court is reversed and the cause remanded.

Hord & Dignowity vs. Placido Olivari, from Bexar county; opinion by Stanton, A. J.

Appellee claims the land in controversy under the King survey made in 1841, the appellants claim through a patent to themselves made in 1855. The case presents only a question of boundary. Running the lines of the King survey in accordance with the lines and corners of the Owen, an older survey, which are well marked, the land in controversy is not included in the King survey. But the appellee claims that this throws the King survey too far west. The King grant, in order to include the land in controversy, must be started from a corner of the Hunsman survey, made in 1836, but appellee claims to have bought this part of the King survey in 1853, when he had a surveyor to fix the lines. When appellants were seeking to locate the land in controversy they applied to appellee for information as to corners, etc., who referred them to Ortiz, who, he said, knew about the corners, and Ortiz pointed out the corners where appellants claim them to be. Both the Owen and King surveys were made by the same surveyor. It is evident from appellee's evidence that this surveyor (Girard) disregarded old corners and attempted to make them where he thought they should be placed. From the evidence we believe that the King survey is where appellants claim it to be, and the judgment should have been for the appellants, and it will therefore be reversed and rendered in their favor.

D. T. Bomar, vs. R. L. Parker, & Co., from Grayson county; opinion by Gaines, A. J. This was cause before this court under title of Parker vs. Spencer, 51 Tex., 155, and affirmed as to Spencer, and remanded as to appellant (Bomar) upon the ground that the court erred in overruling the exceptions of his co-defendants of his cross bill against them to al-

low Bomar to amend. There are no additional averments in the last cross bill except that the attorney declined to amend until the petition was dismissed, and then it was too late to amend, and the appellant does not show due diligence of his counsel in his averment of failure to see the special judge who tried the case in time. Therefore the same questions have to be passed upon as were raised in the former trial, and while this court is not absolutely bound by former adjudications still it must be clearly shown that the former adjudication is erroneous, and this is not done in this case, the case of Hughes vs. Lane, 25 Tex., 356, cited to show the error not being parallel. The doctrine announced in the former case being sustained by the great weight of authority. The question as to whether the record sustains the demurrer, is decided in the affirmative, by the fact that the petition was twice held bad, and two trial amendments having been filed, the defendant made good all formal defenses. There is another objection to the cross bill, which is in the nature of a motion for a new trial. In that it does not show that complainant had been prevented from making his motion during the term at which the judgment was rendered. We had no error and the judgment is affirmed.

W. R. Johnston & Co. vs. Blanks, Walker & Co., from Caldwell county; opinion by Gaines, A. J.

Appellants were plaintiffs in a garnishment proceeding and appeal from a judgment allowing appellees (garnishees) a fee of \$10 for an attorney to draw up an answer to the effect that they owed the debtors nothing. The statute allows a reasonable compensation to the garnishee when he is discharged. While it would be competent for the judge to demand evidence of the services rendered, still it is presumed that he is a judge of the value of the professional services rendered in preparing a garnishee's answer without having testimony. We had no error and the judgment is affirmed.

Court of Appeals.

Austin, Tex., June 8.—The Court of Appeals disposed of the following cases to-day:

Affirmed without written opinions: *Manda Calloway vs. the State, from Lamar;* *George Sullivan vs. the State, from Parker;* *P. R. Chalk vs. the State, from Parker;* *Bob Morgan vs. the State, from Ellis.*

Affirmed with written opinion: *Dan Grate vs. the State, from Milam.*

Certificate dismissed: *A. McLaughlin vs. J. T. Burgher & Co., from Lamar.*

Reversed and remanded: *Hugh Barron vs. the State, from Gillespie;* *John Donohoe vs. the State, from McLennan;* *M. D. Williams vs. the State, from Falls;* *J. Cathey vs. the State, from Bell;* *Bascor Scott vs. the State, from Houston;* *D. S. Felder vs. the State, from Travis.*

Motion for rehearing overruled: *Kolla Shaw vs. the State, from Fannin.*

Affirmed as to appellant and reversed as to sureties on her bond: *Pattie Hoffman vs. the State, from Bell.*

Attempted Suicide.

SAN ANTONIO, TEX., June 8.—John W. Gibson, a colored painter, attempted self-murder this morning by taking a dose of poison. He is still alive, though his recovery is considered doubtful. Gibson has been separated from his wife, and as a second woman figures in the case the supposition is that jealousy was the cause of the act.

Astronomical Conference at Paris.

"The astronomers who met on the 16th ult., at the invitation of the Paris Academy of Science," says a Paris correspondent of the London Times, "agreed upon a plan to be adopted by the various observatories which will join in the work of making a photographic chart of the heavens. The meetings which took place in the large hall of the Paris Observatory, were attended by Auwers of Berlin, Bertrand of Paris, Cruls of Brazil, Eder of Vienna, Elkin of America, Folie of Brussels, Gantier of Geneva, Gill of Cape of Good Hope, Glyden of Stockholm, Knobel of London, Oom of Lisbon, Oudensens of Utrecht, Pecqueur of Copenhagen, Pajazon of Cadix, Rayet of Bordeaux, Roberts of Liverpool, Russell of Sydney, Tacchini of Rome, Thiele of Copenhagen, Tisserand of Paris, Treppe of Algiers, Winterhalter of Washington, Wolf of Paris, and many others. Nearly all the men are engaged in astronomical photography, so that the decisions of this conference will have all the authority that such a truly representative gathering gives.

"The conference took into consideration the main questions, and agreed upon them after some discussion, those main questions being briefly—(1) the need of a photographic chart of the heavens; (2) the use of instruments alike in the various essential parts; (3) the extent of the work generally.

"A committee was then formed to consider the kind of instrument to be employed. After considerable discussion this was decided to be an instrument identical with that already employed by the brothers Henry, in Paris, the magnitude of stars to be taken on the photographs being fixed at what is now known as the 14th magnitude.

"A photographic chart of the heavens is to be at once undertaken by the various observatories which will join in the work.

"Six observatories, four of them French, have already joined, and Chile, through its ambassador at Paris, has declared its intention of joining; there are thus already seven observatories which will at once, when the instruments are ready, begin the work. Many of the astronomers who attended the conference stated that, while they were unable to say definitely that their governments would join, they had little doubt that they would do so; so that now it may be considered as finally settled that we shall soon have a photographic chart of the heavens, the value of which it is quite needless to speak of. The arrangements made for the work of the conference were most complete and reflect great credit on Admiral Mouchez and the French astronomers. The proceedings throughout the whole of the eight days during which the conference sat were marked by an amount of good feeling that is not always found in scientific gatherings. Though many of the questions were discussed with great vigor, the voting, when the matter was voted upon, was, in nearly every case, unanimous.

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ECONOMICAL PRESIDENTS.

Many of Them Have Been Able to Retire From Office with Small Fortunes.

There seems to be some conflict in opinions among writers for the press just now about the amount of money Mr. Cleveland is going to accumulate in his presidential term. One writer, the other day, declared that the President was finding the expenses of his position worse than the salary. Another says, on the other hand, that he will go out with about \$100,000 saved out of his salary. The fact is that neither of them knows anything about the matter. Mr. Cleveland is not taking every newspaper man into his confidence about his private affairs. He is undoubtedly able to live within his income, and with what money he had when he came here and the growth in value of what he has purchased, it is not improbable that he may go out of the White House with about \$100,000.

If he does, it will put him just about on a par in the matter of wealth with the average retiring President. Some of them had more than that, but a good many had less. As a rule, the average President is not much of a financier, and if he accumulates wealth it is because it gravitates towards him by the attraction of high position.

President Arthur was a very high feeder and spent a great deal of money on his table, but he managed to save about \$400,000. Garfield was not in office long enough to save much money. He left about \$40,000, and the gifts Mrs. Garfield has received have made her a wealthy woman.

Mrs. Hayes ran the financial end of the house during Hayes' administration, and that she is a financier is proved by the amount saved out of his salary.

Grant never saved much of his salary, but the generous gifts of his friends made him independent. He lost his all in the Grant-Ward failure. The sale of his book has placed his wife in an affluent position again.

When Andrew Jackson left the White House he had about \$150,000, a good deal of which was lost by the failure of the Freedmen's bank.

Buchanan left over \$250,000 to his nephews and nieces.

Pierce did not do as well. Fifty thousand dollars was his limit, with no one to inherit it.

Fillmore left the White House a poor man, but by a second marriage became wealthy.

John Tyler went to the White House a poor man, but he managed to save enough out of his salary to live in comfort.

James K. Polk left about \$150,000. As he had no children Mrs. Polk received it all.

Martin Van Buren did not save much out of his salary, but left \$300,000.

Andrew Jackson was counted a rich man in his day. The Hercules, which he left to his adopted son, is now the property of the state.

James Monroe died in New York insolvent.

Of the earlier Presidents Washington was the wealthiest. At his death his estate was valued at \$300,000.

Adams was poor, but by his wise, able management he never suffered want. When Jefferson entered the White he was a wealthy man, but he lost his property and died insolvent.

Madison was wealthy when he became President, and left a handsome estate, which Mrs. Madison's son, Payne Todd, squandered, and left her a poor woman.

THE BURIAL OF PASQUALE.

Body of the Veteran Chief of the Yumas Cremated by His Tribe.

Pasquale, the famous veteran chief of the Yumas, died on the night of the 9th inst. It is supposed that he was at least 100 years old at his death. The surgeon-general's report of 1876 claimed that he was then over 83. His illness was lingering, but severe, superinduced by anxiety for the welfare of his people during the recent measles epidemic which swept away over 100 of his relatives and subjects. Pasquale was a remarkable man, particularly noted for his intelligence, courage and physical strength. In these respects he ranked far above Cochise, Nana, Geronimo and other chiefs of Arizona tribes.

But little of his history can be learned here. General Heintzelman made him chief in 1851, when he established Fort Yuma. With the exception of some difficulties with the whites between the years 1852 and 1856, Pasquale has been friendly and peaceable. He was a just and fair-minded Indian himself and often enforced discipline and obedience upon refractory members of his tribe by "snake-tailing," or the free use of the hickory. He was never known to drink nor steal and the lash was the inevitable penalty for those violating his example.

For the first violation, seven lashes were applied; for the second, fourteen lashes; for the third, twenty-one, and increasing each for each repeated offense, until the Indian was either reformed or whipped to death.

For weeks, wan and emaciated, a mere living skeleton, he lay upon his rude bed, surrounded night and day by squaws who kept up an incessant wailing that was weird and unearthly in the extreme. The end came on the night of the 9th. During the remainder of the night the older Indians completed arrangements for his cremation, most of which had been made days before. The younger bucks carried the firewood and caught the horses that were to be slaughtered to accompany the chief to his future home.

Bright and early Tuesday morning, many ladies and gentlemen from Yuma repaired to the Indian village to witness the curious and barbaric cremation ceremonies.

The village, situated directly west of the hills upon which the fort is built, on the California shore of the Colorado, is in the midst of a flat covered with willow, mesquite and cottonwood trees, which grow abundantly. Among these, the rude huts or wigwags of the Indians are scattered.

The entire tribe had been notified, and several hundred Yumas assembled about the funeral pile. This was formed by digging a V-shaped hole seven feet long by three feet wide. Along its sides large sticks of dry wood were placed upright. Between these sticks a bed of dry twigs and brush was heaped and upon this the body, well swathed in a sheet, was placed. Then came dry wood, next a thick canvas covering and upon this logs were piled until the pyre reached seven feet in height; then the worldly possessions of the old chief, comprising an old-fashioned trunk, quilts, blankets, knives, bows and arrows, calico, a gun and a variety of other things. Two fine young horses, gaily rigged in bright-colored trappings, were brought to the pile, alongside of which their graves had been dug. Just before applying the torch the poor brutes were knocked on the head

with axes, disemboweled, thrown into their graves, and, as the last shovel of dirt fell upon them, the torch was applied and the dense smoke and flames rose heavenward, leaving but a heap of smoldering ashes to represent all that was earthly of Pasquale.

During the ceremony the bucks and squaws, grouped about the funeral pile, kept up a solemn, heartrending crying and wailing, the anguish and sorrow of which could not have been more intensely expressed by the highest type of civilization. Several young boys, holding bows and arrows, with fancifully designed headgear of red flannel and feathers, assisted actively. Many Indians threw their most valuable possessions into the flames—a buck his watch, squaws their ornaments and cellos, and children and men their weapons. The older squaws were, in most cases, nearly nude, as were many of the older men. The entire scene was extraordinary and impressive.

The older Indians generally led the ceremonies. Several tearful speeches were made, which, though unintelligible to the whites, invariably ended with the cry, "Pasquale! Pasquale!" This, with the cremations of the Yumas recently dying of the measles, has practically bankrupted the tribe. It is feared that papers of great historical interest, belonging to Pasquale, and received concerning him at various times during his long and varied career, have been destroyed with his body.

Several days will elapse before the election of a successor to Pasquale, "Captain" Miguel being Chief ad interim by appointment of Pasquale. It is thought that an English-speaking Indian will be selected.

Increased Its Size.

Special to the Gazette.

TYLER, TEX., June 8.—The Evening Tribune of this city, a daily paper started a month and a half ago, comes out to-day with eight pages double its former size.

Destroyed by Lightning.

HAUGHTON, MICH., June 8.—The Quincy rock house and drum house were struck by lightning this morning and totally destroyed. The loss is \$50,000; insurance unknown.

J. P. SMITH, O. S. SATON, J. L. GILBERTSON

SMITH & EATON, Law and Land Office, Smith & Jarvis' block, Fort Worth.

PENDLETON, CHAPMAN & POWELL, Attorneys At Law, Offices over First National bank, Ft. Worth, Tex.

JAMES W. SWAYNE, ATTORNEY AT LAW, Offices over First National bank, Fort Worth.

HECK & BARBER, CONTRACTORS AND BUILDERS Will furnish estimates of cost on all kinds of building, shelving, counters, etc., Fort Worth, Texas.

TEXAS EXPRESS COMPANY, C. T. CAMPBELL, Superintendent, Houston, Tex.

G. S. Getts, Agt., 313 Main St., Ft. Worth.

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BULL'S SARSAPARILLA.

THE LIVER Secretes the bile and acts like a filter to cleanse impurities of the blood. By irregularity in its action or suspensions of its functions, the bile poisons the blood, causing jaundice, skin eruptions, weak eyes, bilious diarrhoea, languid, weary feeling, and many other distressing symptoms generally termed liver troubles. These are relieved at once by the use of BULL'S SARSAPARILLA the great blood resolvent.

DYSPEPSIA Variable appetite; faint, gnawing feeling at pit of the stomach, heartburn, wind in the stomach, bad breath, bad taste in the mouth, low spirits, general prostration. There is no form of disease more prevalent than Dyspepsia, and it can in all cases be traced to an enfeebled or poisoned condition of the blood. BULL'S SARSAPARILLA by cleansing and purifying the blood, tones up the digestive organs, and relief is obtained at once.

DR. JOHN BULL.—I have no hesitation in saying that I believe BULL'S SARSAPARILLA to be the best medicine manufactured for the cure of Scrofula, Syphilis, and many other cutaneous and glandular affections, having used it with entire success in numbers of the above cases.

DR. JOHN BULL.—I have procured one bottle of BULL'S SARSAPARILLA for my eldest son. Among the remedies and various prescriptions that he has tried for weak lungs and chest, this one bottle has been of more benefit to him than all. It has cured me of Scrofula as well.

DR. JOHN BULL.—I have procured the prescription for the preparation of BULL'S SARSAPARILLA, and believe the combination to be an excellent one, and well calculated to produce an alternative impression on the system. I have used it both in public and private practice, and think it the best article of Sarsaparilla in use.

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